

**UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA**

PHOENIX CAPITAL GROUP HOLDINGS, LLC,)	Case No. 1:23-cv-00209
)	
Plaintiff,)	
)	
v.)	
)	
INCLINE ENERGY PARTNERS, L.P.,)	
)	
Defendant.)	

PLAINTIFF’S NOTICE AND REQUEST FOR STATUS CONFERENCE

On December 6, 2024, undersigned counsel and the firm of McKool Smith, P.C., appeared on behalf of Plaintiff Phoenix Capital Group Holdings, LLC (“Phoenix”). The undersigned will be taking over as lead counsel in the present matter.

Currently pending before the Court is Phoenix’s motion for leave to file a first amended complaint (along with the proposed first-amended complaint). ECF No. 30. Phoenix and its new counsel are in the process of reviewing the proposed amended complaint in view of additional facts relating to the parties’ disputes, and considering options including potential further amendment of the complaint and the assertion of additional and amended claims.

Accordingly, and in order to present these issues to the Court in the most efficient manner possible, Phoenix requests a remote scheduling and status conference on January 22, 23 or 24, 2025.¹

Phoenix recognizes that its prior motion to amend is fully briefed and pending before the Court. Phoenix does not file this motion for purposes of delay. To the contrary, Phoenix submits that all parties and the Court will conserve time and resources by addressing Phoenix’s potential,

¹ While Defendant opposes this request, as discussed below. Counsel have conferred and both parties have no *scheduling* conflicts on these dates.

additional amendments together, as opposed to Phoenix filing a separate, renewed motion for leave to amend, after the Court rules on the pending request.

Additionally, Phoenix believes that its forthcoming proposed amendments may streamline the issues for the Court to decide, and Phoenix submits that its proposed additional amendments can be briefed on an abbreviated schedule that avoids repeating arguments already presented to the Court. Phoenix is happy to discuss its proposals concerning that supplemental briefing, the schedule, and any other issues at the requested status conference.

Given the liberal amendment standards under Rule 15 and Eighth Circuit law favoring resolution on the merits, Phoenix believes that this procedure will conserve party and judicial resources. *See* Fed. R. Civ. P. 15(a)(2); *see also, e.g., Chesnut v. St. Louis County*, 656 F.2d 343, 349 (8th Cir. 1981); *First Int’l Bank & Trust v. Oasis Petroleum N. Am. LLC*, 587 F. Supp. 3d 896, 898-99 (D.N.D. 2020); *Running Horse, LLC v. Rodenbough Trucking & Excavating, Inc.*, 2016 U.S. Dist. LEXIS 191604 (D.N.D. June 29, 2016).

Counsel for Phoenix has conferred with counsel for Defendant Incline Energy Partners, L.P.’s (“Incline Energy”) concerning this notice and request for a status conference. Incline Energy opposes Phoenix’s request for a status conference and indicated it will file its opposition in due course.

Dated: December 16, 2024

Respectfully submitted,

/s/ Chad S. Hummel

MCKOOL SMITH, P.C.

Chad S. Hummel *Pro Hac Vice* (SBN 135099)

chummel@McKoolSmith.com

Makenna Miller *Pro Hac Vice* (SBN 329244)

mmiller@McKoolSmith.com

300 South Grand Avenue, Suite 2900

Los Angeles, California 90071

Telephone: (213) 694-1200

Facsimile: (213) 694-1234

MCKOOL SMITH, P.C.

Travis E. DeArman *Pro Hac Vice*

tdearman@McKoolSmith.com

Gary Cruciani *Pro Hac Vice*

gcruciani@McKoolSmith.com

300 Crescent Court, Suite 1200

Dallas, Texas 75201

Telephone: (214) 978-4000

Facsimile: (214) 978-4044

Attorney for Plaintiff

PHOENIX CAPITAL GROUP HOLDINGS, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 16, 2024, a true and accurate copy of the foregoing was served through email/ECF system on all parties and counsel of record in the above-captioned action.

/s/ Chad S. Hummel

Chad Hummel